

Remarks

Applicants respectfully request reconsideration and allowance of the captioned application. Claims 1, 2, 6, 7, 9 and 12 are amended, claim 8 is canceled without prejudice, and new claims 13-21 are added.

1. The Office Action required new corrected drawings to replace the informal drawings that were originally submitted with the captioned application. Formal drawings have been prepared and are attached. Applicants request that the attached formal drawings be substituted for the originally submitted informal drawings.

2. The Office Action objected to certain clerical errors in the written disclosure. The specification is amended to make the corrections recommended in the Office Action.

3. The Office Action objected to certain clerical errors in claims 1 and 12. Those claims are amended to correct the clerical errors noted by the Office Action.

4. The Office Action rejected claims 1, 2 and 12 as being indefinite. Those claims are amended to correct the informalities noted in the Office Action. Dependent claims 6 and 7 are also amended to address clerical errors and to delete unnecessary limitations.

5. The Office Action rejected claims 1-5, 7, 8 and 12 as being anticipated by Denny. (The Office Action stated that the rejection was based on Denny 6,698,604, but it appears that the rejection actually was based on Denny 6,609,621 and the applicants reply accordingly.) The Office Action rejected claims 1, 4-6 and 12 as being anticipated by Calleja. The Office Action rejected claim 9 as being rendered obvious by Denny ('621) in view of Calleja. The Office Action rejected claims 10 and 11 as being rendered obvious by Denny ('621) in view of Kita.

With respect to dependent claim 8, the Office Action asserted that the Denny net posts (that the Office Action characterized as the claimed safety net system uprights) have C-shaped cross-sections and consequently disclose an open lower portion. As amended, the claim 8 requirement for the upright to have an open rear is incorporated into independent claim 1, and it is clarified by defining the side of the upright adjacent the rack post as the front, defining the opposing side of the upright as the rear, and defining the side of the rack post to which the upright has to be mountable. Consequently, dependent claim 8 is canceled without prejudice, and claim 9 is amended to depend from claim 1 (and to conform with claim 1 language) rather than from canceled claim 8.

The open rear is not disclosed by Denny or any of the other cited references. (*See e.g.* Figure 7 of Denny, in which the open side of the C-shaped net post is the side adjacent the rack support post rather than the opposing side of the C-shaped net post, and in which the net post is not mounted adjacent the rear of the rack support post.) Therefore, claim 1 should be allowable.

Claims 2-7 and 9-12 depend directly or indirectly from claim 1 and should be allowable at least for that reason alone. However, there are additional reasons. For example, the Office Action erroneously asserted that Denny anticipated claim 2 because its net is mountable to a rack beam 129 (citing Fig. 8). However, the Denny does not disclose securing its net to a rack beam 129 but to cable 240 that extends between the net posts and is not part of the rack. Denny, 3:26-29 (referring to Fig. 1, but Fig. 8 does not differ from Fig. 7 in this regard and Fig. 7 does not differ from Fig. 1 in this regard, 3:50-55 and 3:61-64). The other cited references also do not disclose securing a net to a rack beam.

As another example, the Office Action erroneously asserted that Calleja anticipated claim 6, by characterizing the front face 502 (of the post that the Office Action analogized to the claimed upright) as the claimed connecting region of the upper mount. However, if the Calleja post is characterized as the upright, then its face 502 is part of the upright and cannot be part of the upper mount being used to mount the upright. The other cited references also do not disclose what is claimed.

As another example, the Office Action erroneously asserted that Kita (in conjunction with Denny) rendered claims 10 and 11 obvious. However, the Kita screen is not a safety net but a screen for projecting images. Furthermore, the Kita screen is not wrapped around an upper element to maintain it in tension when it is being used, but to store it when it is not being used. (*see e.g.* Kita abstract and para. 8). Therefore, Kita does not disclose the claimed limitations, and there also is no motivation to combine Kita with Denny because they are not addressing similar problems.

For the foregoing reasons, applicants respectfully submit that claims 1-7 and 9-12 are allowable.


6. New claims 13 and 21 are supported, for example, by Figure 3 and paragraph 32 of the captioned application. New claims 14 and 15 are supported, for example, by Figure 5 and paragraphs 30 and 31 of the captioned application. The other new claims include limitations similar to matter claimed, for example, in original claims 1, 3, 4 and 10. None of the cited references disclose uprights open in the front and rear, allowing the upright to be mounted to a rack post on the same side of the rack post to which structural members are connected. For the foregoing reasons, applicants respectfully submit that claims 13-21 are allowable.

Applicants submit that the application is in condition for allowance, and request reconsideration and allowance. Should the Examiner be of the opinion that a telephone conference would expedite prosecution of the application, the applicants request the Examiner to call the undersigned at the below-listed telephone number.

Respectfully submitted,

9 May 2006

WELSH & KATZ, LTD.
120 South Riverside Plaza
22nd Floor
Chicago, Illinois 60606
(312) 655-1500



L. Friedman
Reg. No. 37,135